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SERVICE DATE – DECEMBER 12, 2012

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 1071

STEWARTSTOWN RAILROAD COMPANY—ADVERSE ABANDONMENT—IN YORK
COUNTY, PA.

Decided: December 12, 2012

By decision served November 16, 2012 (November 16 Decision), the Board granted the application of the Estate of George M. Hart for third-party, or “adverse,” abandonment of the 7.4-mile line of railroad owned by the Stewartstown Railroad Company (SRC) in York County, Pa. (the Line). The adverse abandonment was granted subject to, among other things, the possibility of offers of financial assistance (OFAs) under 49 U.S.C. § 10904 to purchase the Line.

On January 18, 2012, while the adverse abandonment application was under consideration, James Riffin filed a notice indicating his intent to file an OFA as well as a statement of his claimed net worth. Subsequently, Riffin supplemented his confidential financial information on October 10, 2012.

On December 3, 2012, Riffin filed a “motion for a ruling,” requesting that the Board determine whether he must submit a more recent personal financial statement for his contemplated OFA. Riffin asserts that there has been little change in his net worth since his most recent submission and he is reluctant to request another one due to the burden it would impose on bank employees, yet he is concerned that the information currently in the record might be found stale due to the passage of time.

Riffin’s motion for a ruling will be denied. It would be inappropriate for the Board, in effect, to rule formally on the sufficiency of Riffin’s evidence in the abstract, before Riffin’s OFA, if any, has been filed. The Board notes that it is the OFA offeror’s obligation to provide accurate information sufficient to show, when the offer is filed, that the offeror has or will have the means to carry out its offer. See 49 C.F.R. § 1152.27(c)(1)(ii)(B) (an OFA must, among other things, “demonstrate that the offeror is financially responsible; that is, that it has or within a reasonable time will have the financial resources to fulfill proposed contractual obligations”).

Additionally, by decision served on November 30, 2012 (November 30 Decision), the Board tolled the time period for Riffin to submit an OFA to purchase some or all of the Line under 49 C.F.R. § 1152.27(c)(1)(i)(C) and directed SRC to provide Riffin and the Board, by December 31, 2012, with the OFA-related information described under 49 C.F.R. § 1152.27(a). That same day, SRC filed a petition to reopen and stay the November 16 Decision. The Board will address that petition in a subsequent decision. In the meantime, however, the parties should

note that the pending petition to reopen and stay does not affect their obligation to comply in a timely fashion with the November 30 Decision.¹

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. Riffin's motion for a ruling is denied.
2. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

¹ As SRC has raised the possibility of settlement (see Petition to Reopen and Stay at the seventh unnumbered page), the Board's Office of Public Assistance, Governmental Affairs, and Compliance is available to assist in facilitating settlement discussions between the parties if they so desire.